



## DECISIONS, NOTICES AND ORDERS

**Monday, November 28, 2011**

The Supreme Court of Appeals of West Virginia has taken action in the following cases. This list contains only the action taken by the Court, not the content or actual date of orders or decisions.

---

### REHEARINGS

The Court took the following action on petitions for rehearing:

Kim Wolfe, in his capacity as Cabell County Sheriff, et al. v. Nathan Adkins, et al., No. 101476 (Cabell 04-C-1123)  
Refused (5-0)

### MEMORANDUM DECISIONS

In accordance with Rule 21, memorandum decisions were entered in the following cases:

SportMart, Inc., et al. v. Debra Knell and Withrow-Wills, LLC, No. 11-0048 (Putnam 09-C-13)  
Affirmed (5-0)

State of West Virginia v. Michael A. Forren, No. 11-0049 (Fayette 10-F-143)  
Affirmed (5-0)

State of West Virginia v. James L. Whitlow, No. 11-0586 (Fayette 08-F-69)  
Affirmed (5-0)

Karen Johnson and Halford T. Johnson v. Andrew J. Buckley, No. 11-0060 (Wood 09-C-390)  
Affirmed (5-0)

Charles Thomas v. Boyd's Family Home Medical, et al., No. 11-0253 (Kanawha 10-C-30)  
Affirmed (5-0)

Patricia Harrison v. City of Charleston, No. 11-0598 (Kanawha 09-C-2085)  
Affirmed (5-0)

State of West Virginia v. Matthew W. McIlvain, No. 11-0601 (Marshall 10-F-10)  
Affirmed (5-0)

Kendall K. Richards and Kendall Enterprises, Inc. v. Monongahela Power Company, et al., No. 11-1301 (Wood 06-C-621)  
Affirmed (4-1)(Justice Davis dissenting)

ORDER LIST  
November 28, 2011  
Page 2

James Wayne Lowe v. David Ballard, Warden, No. 11-0546 (Mercer 10-C-368)  
Affirmed (5-0)

Rozanne Wilcox v. Ginny Conley and County Commission of Wood County, No. 11-0678  
(Wood 08-C-185)  
Affirmed (5-0)

Clyde Crawford v. David Ballard, Warden, No. 11-0783 (Cabell 00-C-250)  
Affirmed (5-0)

Kenneth Wayne Martin v. Thomas McBride, Warden, No. 11-0991 (Webster 07-P-35)  
Affirmed (5-0)

Belmont Resources, LLC, et al. v. Tunnelton Cooperative Coal, Inc., et al., No. 11-0159  
(Preston 10-C-30)  
Affirmed (5-0)

**RULE 19 ARGUMENT GRANTED**

The following case will be scheduled for Rule 19 oral argument on  
a date to be determined by the Clerk:

SER Coal Age, Inc. v. Hon. Warren R. McGraw, Judge, No. 11-1404 (Original Prohibition)

**RULE 20 ARGUMENT GRANTED**

The following cases will be scheduled for Rule 20 oral argument  
on a date to be determined by the Clerk:

Roger W. Goff v. Penn Mutual Life Insurance Company, et al., No. 11-1020 (Harrison 09-C-345)

CSX Transportation, Inc. v. Angela Smith, No. 11-0694 (Boone 08-C-96)  
SER Massachusetts Mutual Life Insurance Company v. Hon. David W. Sanders, Judge,  
No. 11-1514 (Original Prohibition)

**ORDERS**

Orders of note were entered in the following cases:

SER Office of Disciplinary Counsel v. Kenneth E. Chittum, No. 11-1402 (Original Contempt)  
Rule to show cause issued returnable April 10, 2012 (5-0)

Lawyer Disciplinary Board v. David D. Perry, No. 10-4006 (Lawyer Disciplinary)  
Law license suspended indefinitely (4-1)(Justice Ketchum)

Lawyer Disciplinary Board v. James R. Henry, No. 11-0186 (Lawyer Disciplinary)  
Law license annulled (5-0)

ORDER LIST  
November 28, 2011  
Page 3

Lawyer Disciplinary Board v. Randy K. Miller, No. 11-0274 (Lawyer Disciplinary)  
Admonishment (5-0)

James Martin, Director Office of Oil and Gas, et al. v. Matthew Hamblet, No. 11-1157  
(Doddridge 10-P-15)

West Virginia Surface Owners' Rights Organization granted leave to intervene as respondent.  
Independent Oil and Gas Association of West Virginia, Inc. granted leave to file amicus curiae  
brief; request to participate in oral argument denied.

West Virginia Oil and Natural Gas Association granted leave to file amicus curiae brief.

SER Capitol One Bank, N.A., et al. v. Hon. David W. Nibert, Judge, No. 11-1401  
(Original Prohibition)  
Petition refused (4-1)(Justice Benjamin)

SER Mountaineer Park, Inc. v. Hon. Arthur M. Recht, Judge, No. 11-1422 (Original Prohibition)  
Petition refused (3-2)(Chief Justice Workman, Justice Davis)

SER H. Lawrence Logan v. Hon. David H. Sanders, Judge, Nos. 11-1420 and 11-1421  
(Original Prohibition)  
Petitions refused (5-0)

SER Big Lots Stores, Inc. v. Hon. Christopher C. Wilkes, Judge, No. 11-1497  
(Original Prohibition)  
Petition refused (5-0)

State Farm Mutual Automobile Insurance Company v. Jill and Steven Schatken, No. 11-1142  
Motion to stay granted (4-1)(Justice Davis)

SER WV Dept. of Health and Human Resources v. Hon. Carrie Webster, Judge, No. 11-1406  
(Original Mandamus)  
Rule to show cause issued returnable January 25, 2012 unless sooner mooted by entry of an  
order ruling on petitioner's motion for summary judgment.